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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 15

VICKI SCHMIDT, COMMISSIONER OF INSURANCE, *In her Official Capacity* Petitioner, vs. MutualAid eXchange Respondent.	)	Case No. 2023 CV 494

FOURTH CLAIMS REVIEW REPORT

COMES NOW Commissioner of Insurance, Vicki Schmidt, in her capacity as Liquidator ("**Liquidator**") of MutualAid eXchange ("**MAX**"), by and through counsel, and pursuant to K.S.A. 40-3642, presents to this Court the Liquidator's Fourth Claims Review Report.

On August 22, 2023, this Court entered a Judgment, Decree and Order of Liquidation with Finding of Insolvency (the "**Liquidation Order**") against MAX. The Liquidation Order and the Kansas Insurers Supervision, Rehabilitation and Liquidation Act, K.S.A. §§ 40-3605 et seq.(the "**Act**"), set forth the claim adjudication procedures, and the Liquidation Order set the deadline for filing Proofs of Claim ("**POCs"**) as August 23, 2024 (the "**Bar Date**").

To date, 803 POCs have been submitted to the Liquidator. The Court previously approved the Liquidator's recommended determination for 720 POCs. This Fourth Claims Review Report, will resolve 31 additional POCs. If approved, 751 POCs will have received final determinations (416 denied, 335 approved or approved in part), and 11 POCs allowed as contingent. The contingent POCs belong to State Insurance Guaranty Associations ("**SGAs**") and will remain contingent until all claims handled by each SGA are closed and the closure is reported back to MAX.

Liquidator's Fourth Claims Review Report

The Liquidator, by and through the Special Deputy Receivers ("**SDRs**"), has reconsidered six POCs previously allowed as contingent, and has completed her investigation of one additional POC.

1. Reconsideration of Proofs of Claim:

Six SGAs have closed all claims and have completed their reporting to the Liquidator. The Liquidator therefore recommends allowing, as Priority Class 2 claims, (1) the total amount of unearned premium and policy claim payments made by the SGA, and reasonable Adjusting and Other ("**AO**") expenses. The reasonable AO expenses was determined to be 2% of the amount of UEP claim payments made by the SGA plus the actual expense or 10% of the amount of policy claim payments made by the SGA, whichever is less. Accordingly, the Liquidator recommends allowing the following amounts:

POC #	Filed By	UEP & Claims	UEP Expense	AO Expense	Total Amount Allowed
1-00663	Arizona Property & Casualty Insurance Guaranty Fund	$ 3,389,152.51	$ 33,958.69	$ 170,169.60	$ 3,593,280.80
1-00783	Indiana Insurance Guaranty Assoc	$ 2,116,007.86	$ 4,116.91	$ 194,745.68	$ 2,314,870.45
1-00253	Missouri Property & Casualty Insurance Guaranty Assoc	$ 3,242,272.74	$ 31,711.84	$ 165,836.81	$ 3,439,821.40
1-00599	Pennsylvania Property & Casualty Insurance Guaranty Assoc	$ 741,053.92	$ 4,734.75	$ 50,880.31	$ 796,668.98
1-00799	Utah Property and Casualty Insurance Guaranty Assoc	$ 399,514.69	$ 4,526.67	$ 17,318.13	$ 421,359.49
1-00251	West Virginia Insurance Guaranty Assoc	$ 17,955.74	$ 359.11	$ -	$ 18,314.85

2. Review of Additional Proofs of Claim

The Liquidator reviewed 19 POCs that she recommends denying. Nine of the POCs sought policy benefits or unearned premiums ("**UEP**"). The Liquidator transferred these policy and UEP claims to the affected SGAs, which paid the amount due or covered by the policies. Accordingly, the Liquidator recommends denying the following POCs:

POC #	Filed By	Address	Recommendation	Amount Allowed
1-00195	Galen & Nancy Tieszen	Wellington, KS 67152	Denied	$0.00
1-00430	Terry Schmidt	DeSmet, SD 57231	Denied	$0.00
1-00595	Ronald & Judy Elsbury	Madison, MO 65263	Denied	$0.00
1-00712	Charlotte Wine	Imperial, NE 69033	Denied	$0.00
1-00768	Thomas Morgan and Ann Morgan	Waynesville, MO 65583	Denied	$0.00
1-00775	Jason Macgregor	Phoenix, AZ 85014	Denied	$0.00
1-00781	Jason Rohde	Omaha, NE 68116	Denied	$0.00
1-00796	Dorothy Vela	Warr Acres, OK 73132	Denied	$0.00
1-00798	Lillianne Cruise	Miles City, MT 59301	Denied	$0.00

KSA 40-3641 provides that

> The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each

class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class.

The Liquidator has determined that ten POCs would fall into a priority class lower than Priority Class 2. Accordingly, the Liquidator recommends that the following POCs be ***deemed denied*** because the Liquidator does not anticipate that MAX's Estate will have assets adequate to pay Priority Class 2 claims in full. In the event Estate assets are such that a distribution to a lower priority class is possible, the Liquidator will reopen these claims solely for purposes of adjudicating and paying on a *pro rata* basis (with all other claimants in a particular class) the following POCs:

POC #	Filed By	Address	Recommendation	Amount Allowed
1-00614	Information Providers, Inc.	Hopkins, MN 55343	Deemed denied	$0.00
1-00624	David Wine	Lenexa, KS 66219	Deemed denied	$0.00
1-00643	Iroquois Services Corp	Olean, NY 14760	Deemed denied	$0.00
1-00662	Clennon Insurance Agency	Minooka, IL 60447	Deemed denied	$0.00
1-00701	Polsinelli PC	Kansas City, MO 64112	Deemed denied	$0.00
1-00708	State Corporation Commission Bureau of Insurance	Richmond, VA 23219	Deemed denied	$0.00
1-00748	Vertafore, Inc	Denver, CO 80202	Deemed denied	$0.00
1-00774	Illinois Fair Plan	Tinley Park, IL 60487	Deemed denied	$0.00
1-00779	Wyoming Insurance Department	Cheyenne, WY 82002	Deemed denied	$0.00
1-00792	Iowa Dept of Revenue	Des Moines, IA 50319	Deemed denied	$0.00

The Liquidator also completed her review of six POCs where each claimant experienced losses under their policies that exceeded the statutory maximum paid by the affected SGA – either UEP or policy claims. Accordingly, the Liquidator recommends allowing the amount covered by the policy that is in excess of the SGA statutory maximum. The Liquidator recommends allowing each POC as a priority Class 2 claim as follows:

POC #	Filed By	Address	Recommendation	Amount Allowed
1-00596	James & Barbara Hadorn	Rapid City, SD 57702	Allowed in part	$ 100.00
1-00613	Rick & Sherri Hayes	Rapid City, SD 57702	Allowed in part	$ 100.00
1-00633	Holly & Robert Speeks	Sioux Falls, SD 57106	Allowed in part	$ 100.00
1-00721	William Sudbrock	Lacona, IA 50139	Allowed in part	$ 100.00
1-00722	Jason & Kelsey Jarc	Cuyahoga Falls, OH 44221	Allowed in part	$ 193,760.29
1-00734	Matthew & Kelli McIntosh	Rapid City, SD 57702	Allowed in part	$ 100.00

WHEREFORE, the Liquidator hereby requests that the Court approve her claim recommendations.

Respectively submitted,

/s/ Steven A. Karrer

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